THE HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

W.P.NO.8914 of 2007

Dated:27.12.2007

Between:

M/s. Heart Entertainment Ltd., rep. by
its Managing Director, Venkat N.R.Akkineni,
Hyderabad and another.

..Petitioners.

and

Special Director (Appeals)FEMA & Commissioner
of Income Tax, Delhi-I, New Delhi and another.

..Respondents.

THE HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.8914 OF 2007

ORDER: (per Sri BPR,J)

Heard both sides and at their request, the writ petition itself is taken up for final disposal.

In this writ petition, the petitioners seek a mandamus, *inter alia*, declaring the orders of the Appellate Tribunal for Foreign Exchange, Ministry of Law Justice and Company Affairs, New Delhi in directing them to deposit 40% of the penalty imposed by the

2nd respondent as per the order, dated 29.09.2005, pending the appeals, being Appeal Nos. 124 and 125 of 2006, as illegal and arbitrary.

The main ground urged on behalf of the petitioners is to the effect that even taking into account the violation as alleged against the petitioners for non-filing of the accounts, the maximum penalty that can be levied is only Rs.2,00,000/- under Section 13 of the Foreign Exchange Management Act, 1999 and therefore, the question of imposing the penalty more than the said amount does not arise.

Heard the counsel on either side and perused the material on record.

Except the aforesaid allegation, there is no other allegation against the petitioners and therefore, since the matter is only at an interlocutory stage, without going into the merits of the matter, we deem it appropriate to dispose of the writ petition with the following directions:

The appellate authority is directed to entertain the appeals by granting stay, pending disposal of the said appeals, subject to the petitioners depositing a sum of Rs.2,00,000/- (Rupees two lakhs only), in each of the appeals, within a period of four weeks from today and thereafter, both the appeals shall be disposed of in accordance with law after affording an opportunity to both the parties.

Accordingly, the writ petition is disposed of. No order as to costs.

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B. PRAKASH RAO, J

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L. NARASIMHA REDDY, J

Dated: 27.12.2007

sj